

**MURRAY BOARD OF ZONING ADJUSTMENTS
REGULAR MEETING
WEDNESDAY, June 21, 2006
4:30 P.M.**

The Murray Board of Zoning Adjustments met in regular session on Wednesday, June 21, 2006 at 4:30 p.m. in the council chambers of city hall at 104 North 5th Street.

Board Members Present: Ed Davis, Bill Whitaker, Darren Jones, Helen Spann, George Stockton, Scott Seiber

Board Members Absent: Andy Dunn

Also Present: Candace Dowdy, David Roberts, Mike Pitman, Peyton Mastera, Kristen Taylor, Ray Osher, Hal Houston, Jerry Harp, Jim Carter, Sid Easley, Bob Futrell, Tung Dinh, Kim Oatman, David Bailey, Mayor Rushing, and public audience.

Chairman Bill Whitaker called the meeting to order at 4:30 p.m., and welcomed the guests and applicants. Mr. Whitaker requested approval of the May 8, 2006 special meeting minutes. **Ed Davis made a motion to approve the minutes. George Stockton seconded the motion and the motion carried with a 6-0 voice vote.**

Chair Whitaker asked for approval of the May 16, 2006 regular meeting minutes with the noted corrections made by Scott Seiber and Darren Jones. **George Stockton made a motion to approve the minutes with corrections. Scott Seiber seconded the motion and the motion carried with a 6-0 voice vote.**

Public Hearing for Appeal of Zoning Official Decision on Alteration to Freestanding Sign – Murray Plaza Lodge – 506 South 12th Street – Ray Osher: Candace Dowdy explained that in March the Planning Department noticed a change to the sign at 506 S. 12th Street. The Murray Plaza Lodge is owned by Mr. Ray Osher that purchased the building a little over a year ago. Ms. Dowdy stated that Mr. Osher explained to her that the sign had a cracked panel and was in need of maintenance. The bottom panel put up read “Court” and he replaced it with one that reads, “Lodge” and Mr. Osher is also in the process of adding landscaping to the area. Ms. Dowdy explained the letter sent to Mr. Osher indicated that no changes were to take place to the sign without complying with the new “monument style requirements” along 12th Street. Ms. Dowdy stated that Mr. Osher has decided to appeal the planning department’s findings on the basis that he feels the changes were of maintenance purposes only and it does not conflict with the overall sign/structure. Ms. Dowdy showed the pictures of the sign, pointing out the new panel in place.

Scott Seiber asked if the dimensions, setback, square footage, and height were known. Ms. Dowdy stated the planning department does not know and not sure how long Murray Plaza has been at this location. Ms. Dowdy acknowledged the new panel could have been up for a few months without notice and that no one reported a complaint. It was simply noticed by the planning department and a letter was sent to Mr. Osher.

Chairman Whitaker asked Ms. Dowdy about the letters sent to property owners along 12th Street. Ms. Dowdy explained that property owners along 12th Street did receive letters explaining the new regulations.

Ed Davis stated that he views the change to the sign as maintenance. Mr. Seiber stated that new business/property owners would not be aware of the sign ordinance along 12th Street.

Chairman Whitaker asked if this letter would have been sent before April 2005. Ms. Dowdy stated it was but not sure of the exact time. Peyton Mastera stated that he believed the letters were sent in February.

Mr. Seiber asked if planning staff would explain the new sign ordinance along 12th Street. Ms. Dowdy stated that when a business name and ownership changes new signage is typically erected and that would constitute a significant change to the sign. Ed Davis noted that he does not see any difference in what Mr. Osher did and what Maurices recently did by replacing the panel in the existing freestanding sign yet did not have to change the freestanding sign to meet the requirements for 12th Street signage. Mr. Seiber agreed with Mr. Davis' but also acknowledged that by granting this appeal it is another lost opportunity to get where the board wants to go with the 12th Street signage. Mr. Seiber stated that the sign doesn't look that bad and this business is part of Murray's history and has been here as long as he can remember. Mr. Davis stated that he would just encourage Mr. Osher that any future changes to the sign be approved by planning staff.

Chair Whitaker swore in Mr. Osher. Mr. Whitaker asked if Mr. Osher received the letter sent about the change in the sign ordinance. Mr. Osher said he had received three different letters (which he had in hand) and presented the letter in regards to the sign ordinance (dated January 26, 2006). Mr. Seiber asked when the change of ownership took place. Mr. Osher said it was about 14 months ago. Mr. Whitaker reviewed the letter and stated the letter indicates Mr. Osher has a non-conforming sign but it was grandfathered in, detailing things he cannot do to the sign.

Hal Houston gave a description of the history of the plaza.

Ed Davis made a motion to accept the change to the sign as maintenance only since the panel was cracked and faded which would not cause the sign to lose its legal non-conformity but any future alterations must be done in compliance with the city's sign ordinance, based on the findings that it does not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or nuisance to the public and will not allow unreasonable circumvention of the requirements of the zoning regulations. Helen Spann seconded the motion and the motion carried with a 5-1 vote. Bill Whitaker voted no.

Review of Site and Floor Plans for proposed daycare and gymnasium – 807 & 809

Coldwater Road – Tung Dinh: Candace Dowdy stated that the conditional use granted to Mr. Dinh stipulated the board to review the site plans prior to a building permit being issued to make

sure the landscaping, screening, parking requirements and other things were in compliance. Ms. Dowdy stated that the overall site plan seemed to be meeting all city requirements. Ms. Dowdy stated that Don Rogers with the Sanitation Department had some suggestions on the placement of the dumpster area and Dickie Walls, Fire Marshall was o.k. with the location of the fire hydrant. Ms. Dowdy stated Police Chief Ken Claud had some concern about the development only having one entrance. Mr. Seiber asked why the Police Chief questioned only having one entrance. Ms. Dowdy said the chief was concerned that in case of emergency situations on Coldwater Road where part of the road could be closed having one entrance would make it difficult to access the property.

Mr. Seiber asked if the adjoining property owners encountered any problems having to share a driveway. Ms. Dowdy stated the property is owned by Mitch Ward and he and Mr. Dinh had no problem sharing the driveway.

Darren Jones asked what the exterior would look like. Ms. Dowdy said she believes it is metal.

The board agreed that the proposed site plan seems to meet all necessary requirements.

12 Month Review of Conditional Use Permit for Pi Kappa Alpha – 103 North 16th Street – Hal Houston: Ms. Dowdy stated that the conditions of the permit were that it be reviewed in one year and that the permit was to expire in two years being June 2007, no more than two residents to resident in each building, landscaping and screening should be in accordance with the zoning ordinance, all non-resident parking would be off-sight, and there was a variance granted on the lot size. Ms. Dowdy explained she had spoken with the adjoining property owner, Mr. Veach. Mr. Veach explained a couple of cars had been towed over the last year but did not see it as a major concern. Ms. Dowdy presented some pictures of the house showing a couple of broken windows and the added landscaping on the south side of the house done by Murray State University. Ms. Dowdy stated a report received by Murray Police showed there had only been two calls made to this location in the past year. One was a noise complaint and one underage drinking complaint. Scott Seiber asked if the complaints had been resolved. Ms. Dowdy stated that she was unsure and that any additional information would have to come from Officer Mullins who made the calls.

Board Member George Stockton asked Chairman Whitaker to be recused from this item on the agenda due to a personal conflict of interest.

Ms. Dowdy stated that Dr. Houston and Mr. Sid Easley would discuss the fraternity's future plans to rebuild or relocate.

Chair Whitaker swore in Dr. Hal Houston. Dr. Houston explained his satisfaction with the fraternity in not having many complaints through the year. Dr. Houston stated the housing corporation members are still trying to decide what to do and where to build. Dr. Houston said the housing corp. just voted to use a company called "The Pennington Group" to start a fundraising campaign across the country. Dr. Houston stated where they move to depends a lot upon the new Murray State administration. The previous administration was in support of the

fraternity moving close to the campus. Dr. Houston stated the current location does not provide adequate space to build a new house or accommodate parking. Dr. Houston discussed lots in proximity to the current location and that the housing corporation has considered purchasing land at different locations but cannot yet make a decision without money, and the amount of money brought in will determine the next course of action. Dr. Houston stated that three or four months ago the housing corporation was put on hold in deciding a course of action because of an incident involving the death of a lady along Coldwater Road with one of the fraternities on campus. Dr. Houston stated neighbors and the campus police have no problem with staying at the current location.

Chair Whitaker swore in the President of Pi Kappa Alpha Fraternity, Jerry Harp. Mr. Harp said both calls to the police were just complaints and no action taken. Mr. Harp stated he had been working on one of the broken windows earlier that day and there was another window on the north side of the house that had already been fixed. Mr. Harp indicated the broken window on the front was being worked on but the pane broke and was why it was not completed. Mr. Seiber asked how much renovation had been done to the house. Mr. Harp stated they had opened up the downstairs area converting three rooms into one and put some carpet upstairs. The back apartment has been refurnished with one person living there. Mr. Harp explained the fraternity did not want to invest a lot of money into the house because of the possibility of moving out. Mr. Seiber asked how many members the fraternity has. Mr. Harp stated the number is currently between 50-60 members but should pick up a few in the fall, but does not anticipate a large increase or decrease in members. Dr. Houston explained the number of kids the fraternity has depends on the Murray State administration and that the success of the fraternity depends on them having some kind of social hall.

Mr. Seiber stated he agreed with the Pennington Group in that a preliminary house plan needs to be set in place before starting the fundraising. Dr. Houston explained when the national headquarters came to examine the fraternity's status; they were more in favor of staying around campus rather than rebuilding along Stadium View Drive. Dr. Houston reiterated the point the fundraising campaign should get movement going in deciding where and what to build.

Dr. Houston explained that Mr. Veach and he had spoken about possibly working out a trade with property along Stadium View Drive and the next door property on N. 16th Street. The fraternity would like to possibly buy property next door that improves on the safety of cars pulling in and out of the house, especially around rush hour times.

Mr. Seiber stated the fraternity appears to be running well and under good leadership as evident by the low number of complaints issued.

Dr. Houston asked about renewing or applying for other conditional use permits in the future. Mike Pitman explained different scenarios in which they would have to reapply. Mr. Seiber encouraged the fraternity to speak with Candace Dowdy before any future permits were applied for.

The board agreed that Pi Kappa Alpha has done a good job of meeting the conditions set forth in the conditional use permit.

Dimensional Variance Request for Side Setback of Freestanding Sign at 913 Coldwater Road – David Bailey: Candace Dowdy stated this property is in a B-2 zone, Mr. Bailey owns a small duplex that has been located there for a number of year. Ms. Dowdy explained that one side of the duplex Mr. Bailey wants to use for his jewelry business while still renting out the other side. Ms. Dowdy noted that there is sufficient parking and that Mr. Bailey is requesting a variance to place a freestanding sign on the front property line and two feet off the side property line. The unique nature of the triangular lot owned by Doris Clark, next to the southeastern portion of Mr. Bailey's property, would place his sign in the gravel parking lot and not allow for landscaping if going by the zoning ordinance. Ms. Dowdy stated there would be no visibility issues if the variance is requested. Mr. Seiber asked if the fire hydrant location would be of any concern. Ms. Dowdy stated she does not believe there are supposed to be any vehicles within 10-20 feet from a fire hydrant. Ms. Dowdy explained that Mr. Bailey has contacted the property owner across the street about possibly purchasing their property next to him but would like to keep the parking and sign on his property. Ms. Dowdy stated any freestanding sign should be at least 10' off the side and front. Darren Jones asked about the parking situation. Ms. Dowdy stated that Mr. Bailey was in attendance and could answer any questions the board had.

Chairman Whitaker swore in David Bailey. Mr. Bailey explained where the parking area would be and that he wanted to put up some barrier or island of some sort around the fire hydrant and potential sign to keep them from being hit. Mr. Seiber asked about possibly putting the sign on the other side of the driveway. Mr. Bailey stated that side would be used for his parking and not as visible to his customers.

Mr. Bailey indicated he would be interested in purchasing the triangular property but has not reached the son of the property owner. Mr. Bailey mows and upkeeps the yard and Ms. Clark told him he could use it as he pleases. Mr. Seiber stated Ms. Clark could grant Mr. Bailey an easement.

Scott Seiber made a motion to grant an eight (8') foot side setback and ten (10') foot front setback on the condition that it will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or nuisance to the public and will not allow unreasonable circumvention of the requirements of the zoning regulations. It was noted by the board the variance is being approved because of the unusual configuration of the adjacent property. Ed Davis seconded the motion and it carried with a 6-0 vote.

Candace Dowdy reviewed the progress of the board with continuing education hours. Chairman Whitaker noted he would be absent from July's meeting.

George Stockton made a motion to adjourn. Scott Seiber seconded the motion and the motion carried with a 6-0 vote.

The meeting adjourned at 5:50 p.m.

Chairman, Bill Whitaker

Recording Secretary, L. Peyton Mastera